App. F. IX-4

1093 & 3

193 S.
(Laws)

File No. Laws/109

Serial Nos. 165 S

Previous References

LR. 358-33-1-4
R. I. & 2-14-39, 40, 42-43

Letter References.

Laws 83-36 (1-2)
LR. 65-37 (65419)
R.M. 93. I.I. - 1-2/19)

preserve

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 5

Part B for April 1936

SUBJECT.

Notice issued by Mr K. T. Bhashyam Aiyangar Bangalore on behalf of Mr K. S. Subbayyer, Jodidar of Parchosahalli Kolar Distt, threatening a suit for the recovery of Rs 1196-2-0 being the 1/8 share of the Govt. grant for the restoration of the Parchosalli tank.

20 K. T. Bhashyam Iyengar Esqr.

No P6630 dt 6-4-36.

WD 03607—GPB—22,500—2-8-35

Informs that his client may approach the New commr who has been duly instructed in the matter

Secy
5-5-36

GENERAL AND REVENUE SECRETARIAT.

(Law)

NOTES.

File No. 109-38

FILE HEADING.

Notice under sec 8 of P.P.

FROM Mr. K.T. Bhashyam Iyengar, Advocate, Bangalore, on behalf of Mr. K.S. Subbaiyer, Judicial, Pachaballi, Kolar Dt.

No.	Dated	Received

Diary No. 4166/F	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER

Forwarding a suit for recovery of Rs 1196-2-0 being the alleged 1/8 share said to be due to him out of the grant of Rs 9569/- made by Govt towards the restoration of Pachaballi tank.

NOTES AND ORDERS.

1) The Rev. Br. may be requested to furnish the connected references

ISD 28/11

2) Reader)

30/4

3) Exhd. G.O. No. 2684-88 W/25/33 has been issued by the P.W.D. (Irrigation) and LR. 48-17 may be obtained from the Records. Title will be returned to the Probate Branch after perusal

2/11/35

NOTES—First Sheet

WD 69—GBPM—5,000—14-7-31

File No. of 193 | General and Revenue Secretariat

884

To,

1) P.W.D. Secty to kindly peruse the papers (v.c.) leading to G.O. no. 2688-88 dated 2.5.33.

TSD 2/12

W.O. Ft. 269 2.12.35.

Para A

Bro II a

W.O. No. 2916 Dy. 10.12.35.

2) The file required is herewith sent

Dy. 4-12.

The herewith forwarded

B 4/12

B° 4/12/35

3) Returned with Compliments to Protection Branch.

Dy 9/12/35 Rev 9/12 9/12/35

4) Submitted with previous references for orders.

Dy 12/12/35

Law Dept 11/12

5) In the notice it is stated that Mr. Subba Iyer requested for refund of Rs 1196-2-0 and this was refused. Was this in the Rev Branch? If there are any papers there relating to this refund, they may kindly be put up. The question of refund cannot have been dealt with in the P.W. Secty.

6) Rev Br

Serial No.

10) L. R 358-33 is put-up and reference is invited to F. No 0

E.

11) The reasons for refusing the refund are not clear from L.R.358-33. A report together with the records may be called for from the Rev Comr

MRL
14.12.35

12) Opl. put up

E

13) Issue

MRL
16/12

3. DEC. 1935
L & REV. SECTT.

2 To the Rev Commr
No P. 3980 dt 18/12/35
for a copy of the notice &
calls for a report

WD 03594—GPB—30,000—13-7-35

4146
4694
4520

File No. 109 of 1935. | General and Revenu Secretariat

From,

Mr. K.T. Bhashyam, Adv.

Letter d. 20.1.36 forwarding for perusal and return Copies of Trg. Challans in respect of the amounts deposited by Mr. Ponna C. Venkateshaya

Letter d. 25.11.35 forwarding Copies of mortgage deed executed by K.S. Subbaya in favour of Venkateshaya and the Regd. agreement executed by the latter Subs. for perusal.

14) The Connected records called for are awaited.

ISD. 31/1

25.1.1

From,

The RL

no. C. 1010/35-36 d. 6.2.36 forwarding the Connected records relating to the notice issued on behalf of K.S. Subbaya.

15) Mr. K.T. Bhashyam has issued a notice under sec. 80 C.P.C. on behalf of one Mr. K.S. Subbaya threatening a suit for recovery of Rs. 1196-0-0 being the alleged 1/8 share due to him out of the

(5

Serial No.

Contribution of Rs 9569 sanctioned by Govt in their order dated 2-5-33 (Reg A').

The main Contentions urged in the petitioner are

1) that the petitioner owns 2 villages out of 16 in Parchonalli, a kayamgutta village Kolar Taluk.

2) that a sum of Rs 2762-8-0 being his share towards the estimated cost of restoration of the tank, was credited on his behalf by the Banna Venkatasingh.

3) that the benefit of the Contribution sanctioned by Govt has not been extended to him and consequently a sum of Rs 1196 being his 1/8 share of Rs 9569-00 Contribution on cost is legitimately due has been withheld

Facts of the case are as follows:

16) The restoration of Parchonalli tank, Kolar taluk was undertaken at the instance of the Jodidars of the village and a sum of Rs 22,800 being the estimated cost, was sanctioned in G.O. dated 22-7-1926 as a loan under the Land Improvement Regn. the Jodidars however having agreed to meet their shares, in the village. One of the Jodidars Mr. K Subbaiya (the present petr) did not agree to this arrangement. But one Banna Venkatasingh paid

NOTE—Contn Sheet.

WD 03594—GPB—30,000—13-7-35

a Sum of Rs 2762-8-0 on behalf of K.S. Subbaya being 1/8 share of the Stamped Cost, and allowed the work to be carried on. Later on the Godidars prayed for the leases allowed under G.O. dt 2.7.25 & accordingly sanctioned a Contribution of Rs 9569-00, the Godidars being allowed to share Rs 12531-00 the balance of Rs 21,100. This Contribution amount was adjusted towards the loan of the 8 Godidars according to their shares, excluding K.S. Subbaya the 9th Godidar treating him as not a party to the transaction.

17) Meanwhile Ponna Venkatasubbaya had paid K.S. Subbaya's share, for a mortgage deed executed in his favour from the latter.

Mr K.S. Subbaya has now produced Two receipts for the amount paid on his behalf and claims that his share of the cost Rs 1196-00 due from the Govt. Contribution of 9569-00 may be paid to him as his share of Stamped Cost has already been paid on his behalf.

18) His Case has been rejected through out as the Govt now party on the ground that he was not a party to the transaction, and party on the strength of a mortgage executed by Ponna Venkatasubbaya stating that he was to have no

Serial No.

to the amount of Rs 27625-0 deposited.

19) The point was the said amount (27625-0) has been deposited on behalf of K.S. Subbaya seems to have been lost sight of. Poona Venkateshaya Cannot execute a mortgage without proper authority from K.S. Subbaya, disclaiming the right in the amount deposited. He seems to have taken the responsibility on his own behalf and executed such a mortgage for the amount deposited on behalf of a third party. It is for Consideration how far such a mortgage will extinguish the liability of Govt when they have accepted the payment on behalf of the petitioner. The petr seems to have a good case and his claim appears to be reasonable

Subd for orders.

TSD
12/2

20) Does the mortgage deed executed by Mr: Subba Aya in favour of the Poona Venkatesia include the money paid by the latter for & on behalf of Mr: Subba Aya?

21) (iii) How has the refund amount been disposed of? Is the share now claimed by Mr. Aya Sahib

WD 03594—GPB—30,000—13-7-35

with post undertaken or has it been
paid away to Mr: Venkatesia or
others.

Please note flagging the necessary
reply.

12/2

22)
i) (a) yes, the mortgage deed executed by Mr. K.S
Subbaiyer is in pursuance of an agreement
of 20.7.32 (flagged 'v') in which he, ~~parties~~
~~agree~~ Came to an ~~understanding~~ Panna Venkatshanze
an agreed to take Rs 1800 only out of Rs 2762-8-0 deposited
& belonging to K.S. Subbaiyer deducting certain amounts
due to the latter in some private transactions.
According to this understanding Mr. K.S.S. Iyer
and his brothers have executed a mortgage deed
for Rs 1800 only.

vi) As regards (ii) One of the Gr. Vrittidars
of the Village Mr. K.S. Subbaiyer who has got 2 shares
was excluded for the reasons already stated. The
Contribution of Rs 9.56.9 sanctioned by Govt
was distributed among the remaining 8 Vrittidars according to their shares, and necessary
mortgage deeds were got executed by them for the
balance due. The Kolar D.C.'s letter of 13.9.33
will explain the details.

ISD.
13/2

Serial No.

iv) The estimated cost of the work was Rs 22,100/-. Before the Govt sanctioned the contribution, the whole amount has to be paid by the Jodidars. Mr: Subba Iyer might have objected to the work in the first instance but the amount due on account of his proprietory interest in the village was paid & that too specifically on his behalf by Poona Venkatesia. After the Govt sanctioned the contribution, it is found that the amount actually paid by the Jodidars, out of the loan in the case of others but in cash in the case of Mr Subba Iyer, had to be refunded in part. It is ~~un~~understandable how the refund amount due ~~to~~ in respect of Mr Subba Iyer's vritti is being refused to him and the same ~~is~~ distributed among the other vrittidars, as seems to have been done in this case. Mr. Subba Iyer cannot be said to have lost his rights to the share in the village on account of his objecting to the restoration of the loan in the first instance.

v) It is said that Rs 276 2/8/ the amount paid by Mr: Poona Venkatesia

NOTE—Contn Sheet.

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on behalf of Mr: Subba Iyer's Vritti was paid by him money contributed by the other Jodidars of the village but deposited through Mr: Venkatesia. This seems to me to be irrelevant to determine the rights & liabilities of Govt so far as Mr: Subba Iyer is concerned. Whoever paid the money & from whatever source it be paid it for and on behalf of Mr: Subba Iyer and because Mr: Subbadyer holds 1/8 share in the village. Any amount liable to be refunded out of this payment has therefore to be refunded to Mr: Subba Iyer or at best to Mr: Venkatesia for & on behalf of Mr: Subba Iyer. There is no reason why the amount is to be given credit to the vritidars other than Mr: Subba Iyer.

2) It is now seen that Mr: Subba Iyer has executed a hypothecation deed in favour of Mr: Venkatesia wherein he accepts liability to the extent of the money deposited by Mr: Venkatesia on his behalf. Mr: Venkatesia's muchalika executed at the time of the deposit that he claims no rights to the money

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Serial No.

cannot defeat the right of Mr: Subba Iyer to get the refund now under question.

27) From an examination of the records I find that Mr: Subba Iyer's claim to the refund has been wrongfully rejected and that both law & equity requires the matter being set right even without recourse to a court of law as is threatened in the notice.

Forwarded with Compliments to the Govt advocate for favour of his advice in the matter.

J M Gorodas
13/2/36

R.O. No. P/134/35-36
dt/13.2.36.

SOUTH ADVOCATE FOR BANGALORE

7. No. 718/35.
dt 13.2.36

No. 117/35-36
dt 25.2.36

Returned with compliments.

28) The facts are practically undisputed. Mr. Subba Iyer owns two out of 16 vritties in Parehosahalli. He was in the beginning unwilling to deposit his share of the amount required for restoration of the village tank and Mr. Venkatesiah undertook to deposit Mr. Subba Iyer's share of the amount also and did deposit it with the Government But later on as is evidenced by the registered agreement dated 26-7-1932 Mr. Subba Iyer and his brother

25 FEB 1936

NOTE—Contn. Sheet.

brother Mr. Rama Iyer executed a pronote to Mr. Venkatesiah for the amount deposited by the latter less what was deducted towards other items and they also agreed to hypothecate to Mr. Venkatesiah their two vritties as security for the same. And what is more important for the present purpose, Mr. Venkatesiah undertook in the said agreement to refund to Mr. Subba Iyer and his brothers the amount payable for their share if anything out of the estimated amount was refunded to the Jodidars. A hypothecation bond was also later executed in favour of Mr. Venkatesiah. The position is therefore clear that the amount deposited by Mr. Venkatesiah was accepted by Mr. Subba Iyer and his brothers as the contribution payable by them on the basis of the origina estimate.

29) As the Government were pleased to order in 1933 (G.O. No.2684-88/S. dated 2-5-1933) the refund of about Rs.9,000/- to the Jodidars, Mr. Subba Iyer and his brothers would rightly be entitled to get therefrom their 1/8 share for their two vritties. The agreement above referred to also entitles them to the benefit of any refund that the Jodidars may have from the Government.

30) A brief reference may also be made to the undertaking given by Mr. Venkatesiah in connection with this deposit. As he deposited only what was payable by Mr. Subba Iyer he seems to have undertaken not to go behind it and claim back the amount in order that the Government might proceed with the work at once. The question of claiming a refund was not

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was not contemplated by the party and this question I think did not arise then for consideration.

31) In the light of these facts it is difficult to see how the other Jodidars could have the benefit of what had to be refunded for the petitioners' two vritties. If the refund is not given M to Mr. Subba Iyer he would be paying as his contribution proportionately very much more than his co-jodidars and this would be - unfair and inequitable. It may also be noticed that Mr. Venkatesiah who deposited the amount has no objection for the refund being granted to Mr. Subba Iyer.

32) Under these circumstances I am of opinion that Mr. Subba Iyer's claim is well-founded and that he is entitled pro-rata to the benefit of the refund.

M. Veeraswami Iyer
Government Advocate.

CSN/24.2.36

~~The above exercise of~~

33) I think that in this case the above view has to be accepted and the previous orders passed in the Rev Bo have to be reconsidered

Gen Secy) DW 25/2 MNL 25/2
Chief Secy)

MNL 26/2/36

GENERAL SECRETARIAT
26 FEB. 1936
7/9

CHIEF SECRETARY.
26 FEB. 1936

34) Received from Chief Secy with instructions to re-examine the question as to how far there is a privity of contract between Govt & Rev Bo in this case MNL 2/3/36

NOTE—Contn. Sheet

WD 02553—50,000—GPB—8-7 30

(14

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General and Revenue
Secretariat

5) I have carefully re-examined the matter in the light of the instructions given by the Chief Secretary but I am still inclined to feel that Mr. Subba Iyer has a real cause of grievance in this case a brief narration of facts is necessary to understand the legal aspect of ~~the matters~~ involved:

6) ~~He~~ On 6:4:1927 all the Jodidars including Mr. Subba Iyer ~~prayed for~~ presented an application to the D.C. ~~&~~ for getting the Parekosalli Kaifiat village restored through Govt agency. On 15.2.28 they all applied for a land improvement loan of Rs 18340/- and also executed an agreement hypothecating their respective villages for their respective portions of the loan. In October 1928 however, the Govt advocate advised that "to safeguard the interests of Govt it would be better to make all the Jodidars jointly & severally responsible and ~~make the~~ entire village liable for the entire amount of principle and interest due instead of apportioning ~~the~~ ~~liability~~ ~~over~~ ~~the~~ several mortgagors in proportion to their

his letter No: 307 dated 16th

Serial No.

interest in the village." The Public Works Dept wanted a sum of Rs 3760/- being added on to the estimate on account of Supervision charges.

37) Mr. Subba Iyer protested against these modifications and along with him another vrittidar holding 2½ as: viz Mr. Reenes also to have protested against himself & his share being held liable for the entire amount of the loan. (I fail to see anything unreasonable in this protest and as a matter of fact the way in which the loan has been granted and the loan bonds taken in 1933 clearly show that all the Jodidars have not been made jointly and severally liable for the entire amount of the loan, as advised by the Govt advocate in 1928).

Mr. K. S. Ramachandra Iyer.

38) As further progress of the work was being delayed on account of the objection raised and as all the Jodidars except Mr. Subba Iyer appear to have agreed to pay the Supervision charges, Mr. Poona C. Venkatesa who it is that Reenes to have taken a leading part in getting this work through and who is also a major vrittidar of the village, deposited Rs 470/- being 1/8 share of the Supervision Charges payable

NOTE—Contn. Sheet.

on account of the 2 writies of Subba Iyer. This was done on 2-8-1929 and the application filed by mr: Venkatesia on that date clearly states that this money ~~was~~ was paid out of his own pocket. Similarly as mr: Subba Iyer refused to sign the agreement hypothecating his writies for the entire amount of the loan, mr: Venkatesia on 30-11-29 deposited the balance of Rs. 2292-8-0 due on account of mr: Subba Iyer's share in the village. mr: Venkatesia also executed a muchalika on 8.5.1930 agreeing not to ask Govt for the return of the sum of Rs. 2762-8-0 deposited by him and stating that in respect of this amount he has no rights against Govt. It is however clear from the treasury chellans issued as also from the petitions filed by mr. Venkatesia at the time that the sum of Rs 2762-8-0 he deposited was money that mr: Subba Iyer was liable to pay on account of his 2 writies and it is also clear that mr Venkatesia paid it for mr: Subba Iyer though against his ~~consent~~ will or consent. Efforts were made then to

Serial No.

Sd registered the loan orders and the hypothecation bonds executed by the Jodidars (including Subbadu) in Feb 1928. This could not be done under the registration laws. Then a muttchalika was got executed on 10th Decr 1930 by Poona C Venkatesica and the other Jodidars excluding mr: Subbadu wherein is however stated that mr: Subbadu has no ~~authority~~ to hypothecate his 2 villages for one-eighth of the original loan of Rs 18340-0-0 applied for, ie for Rs 2292-8-0 deposited by mr: Venkatesica on 30-11-1929. The Jodidars having however finally failed to get this muttchalika duly registered and on the advice of Govt in Dev Secy's letter No: R2109/L.R. 454-31-4 dated 26th Octr 1932, the Deputy Comr, Kolar proceeded to issue a fresh loan order under the L. D. Loans Regulation.

40) Meanwhile on 26th July 1932 an agreement was entered into between mr: C. Venkatesica and mr: Subbadu & his brothers, whereby the latter agreed to hypothecate their 2 villages to mr: Venkatesica for the money paid to Govt on their behalf and mr: Venkatesica agreed to pay to mr: Subbadu & brothers their share of any amount that may be received back on account of

the work proving less costly - In pursuance of this agreement, a hypothecation deed was also executed by Mr. Subbadhar & brothers on 24-11-32. Both these documents were registered in Nov^r 1932. It is clear that so far the question of a refund on Govt showing any conversion account of any contribution that Govt may make did not arise and was not contemplated by any of the parties concerned.

(b) In Govt order No: 2684-88/S. dated 2nd may 1933 Govt however granted certain concessions to the Jodidars by which the estimated cost of Rs 22,100/- was apportioned between the Govt & the Jodidars in the proportion of Jodi and Jari, The Govt contribution working out to Rs 9569/- and the inamdar's share to Rs 12531/-.

~~On 22nd July 1933 the Govt~~

(c) In issuing fresh loan orders for this amount of Rs 12531/-, what the Deputy Com^r did was to deduct the amounts paid by Mr. Veerabasia ~~on account of Mr. Subbadhar's~~ and a sum of Rs 50/- realised on account of trees cut and sold from

Serial No.:

the Sum of Rs 12531/- and then to apportion the balance among the 14 anna hissedars of the village, thus excluding the 2 annas hisse of mr: Subba Iyer - on this basis fresh loan orders were made and loan bonds also got executed and it is clear from these documents that it is not a loan granted to all the jodidars on a joint and several responsibility - Each jodidar's share has been apportioned & his liability also limited to the extent of his interest in the village - And it is really not understandable how in doing this, the D.C. Kolar treated the Sum of Rs 2762-8-0 paid by Venkatesi on account of Subba Iyer's 2 vittis as being paid on ~~account of the other hissedars~~ behalf of all the jodidars except mr: Subba Iyer - Neither mr: Venkatesia's application of 30-11-1929 nor his muntchalika of 8.5.1930 warrant such an inference being drawn - As the Treasury chellan shows the money deposited was accepted as money paid on behalf of K.S. Subba Iyer and whether or not there is priority of Contract between Subba Iyer and the Govt, it is clear that as between Venkatesia and Govt, the money has to

NOTE—Contn. Sheet.

treated as paid on account of mr: Subba Iyers 2 vrithies. What the Deputy Com^r, Kolar should have done is to have apportioned the inamdar's share of Rs 12.5.3 1/: among ~~the~~ all the 16 annas hissedars and then to credit the 2 annas hisse of Subba Iyer with Rs 2762-8-0. This would have meant payment in excess which he ought to have refunded to mr Venkatesia or atleast for this amount it was mr: Venkatesia's share that ought to have been given the credit.

(3) Even in case the DC intended not to take into account mr: Subba Iyer's 2 vrithies and to exclude him completely from this work, he ought to have given credit to mr: Venkatesia in respect of the amounts paid by him. There is no reason how any ~~jodi~~ other Jodidar is entitled to the benefit of this payment by mr: Venkatesia. In this view the D.C. Kolar after deducting Rs 50/: realised out of sale of Common property ought to have apportioned the balance of Rs 1248 1/: among the 14 ~~his~~ anna hissedars in proportion to their hisses and ~~gave~~ to him given mr: Venkatesia's

Serial No.

8½ annas share credit for the amount of Rs 2762-8-0 deposited. Mr: Venkatesa Could then have worked out his rights & liabilities with mr. Subba Iyer separately Now in accordance with their agreement of July 1932.

(4) It is really not clear how this agreem of 1932 as well as the mortgage executed by mr: Subba Iyer have not been taken into account by the D.C. Kolar in making the loan orders Mr: Subba Iyer's appl[n] for refund made to the D.C. Kolar in June 1933 ought to have mentioned these transactions of July & Nov[r] 1932. These documents amount to a ratification by mr: Subba Iyer of the payment made by mr: Venkatesa on behalf of Subba Iyer though at the time the payment was made Subba Iyer had not authorised it nor did he approve of it. Sec 196 of the Contract Act says: "where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority." In the leading

NOTE.—Contn. Sheet.

WD 03594—GPB—30,000—18-7-35

(27

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Case of Wilson v Tumman (1843) 6 Man & G. 236, it is said "that an act done for another by a person not assuming to act for himself but for such other person though without any precedent authority whatever, becomes the act of the principal, if subsequently ratified by him, is the known and well established rule of law". In this case the chellan under which Poona C. Venkatesia made the payment is as follows:-

Kolar
Dated 30-11-29

45) Rupees (in words) Two thousand two hundred and ninety two and annas eight only - Presented by Mr Poona C. Venkatesia Contractor, Kolar, on account of Contribution paid by Mr. Poona C. Venkatesia, Contractor, Kolar, on behalf of Mr. K.S. Subbayer towards The restoration of Parchasahalli Major tank, Kolar Taluk.

(Sd) Poona C. Venkatesia
Signature

b) It is no doubt true that Mr. Subbayer was against this payment but this does not prevent him from ratifying it afterwards. In Bowstead on Agency

4146

(23)

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article 27 cl (4), it is said that "the mere fact that the person on whose behalf a payment is made, at first repudiates it, does not prevent him from subsequently ratifying it."

(7) Under these circumstances, I am of opinion that the loan orders made in July 1933 and the refusal to consider Mr. Subba Iyer's claims for refund made in June 1933 by the Deputy Comr, Kolar are not in accordance with law. Mr. Subba Iyer's claim, as observed by the Govt advocate in his opinion recorded on 24.2.36, is, I think, well founded and may be settled out of Court, if possible. If this view is accepted, the Rev Comr will be asked to find out and suggest the ways and means of settling this matter out of Court.

Chief Secy)

25/3/36

CHIEF SECRETARY. 25 MAR 1936

(8) I agree with the above views. The Dy Comr will have the advice to revise his loan orders of July 1933 giving the parties concerned, only the deductions of Contribution due in respect of their respective writtis, and to

NOTE.—Contn. Sheet.

WD 03594—GPB—30,000—13-7-35

Notice of Suit under Sec 80 CPC

4146/4694 V4898 (24

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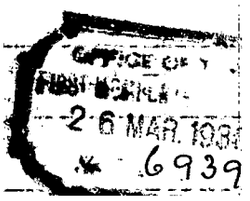
to give the proportionate amount in respect of his Watti, from the Contributions deposited in Cash on his behalf by Mr P. Venkatesayya.

Ben 25/3/36

I & Secretary Yes

x with the Concurrence of P. Venkatesayya. pnl 26/3/36



Yes

29/3

Ben 30/3

Draft

pnl

30/3/36

for a p/s

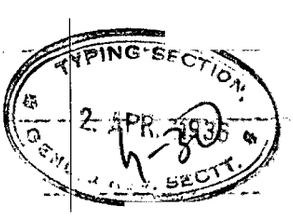
Genl Secy) Yes pnl 1/4 1/4/36

Chief Secy) pnl 2/4

Ben 2/4/36

Issue

pnl 2/4/36.



Notice of Suit on behalf of Mr K.S. Subbaraya...

3833 R 4895 P

4895

General and Revenue Secretariat | Law File No. 109 of 1935. | [App. F. III—2

Serial No.

To,

The Rev. Comr.

no. P. 6629 dt 6.4.36 issuing instructions to refund the amounts due in respect of the Untiles belonging to Mr K.S. Subbaraya...

Mr. K.T. Bhashyam Iyengar, Advn.

Endt no. P. 6630 dt 6.4.36 informing that his client may approach the Rev. Comr in the matter.

Copy to the Rev. Comr.

To,

P.W.D. Secy (M.E.) } to kindly return the papers, and returning the file.

ISD 7/4

Returned with compliments. The P.W. Secrett file is returned.

Genl Secrett 8.4.

Rev Br for perusal & return

9/4

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11/4/36

NOTE.—Contn. Sheet.

M.O. P. No 495 8/4/36

B 11/4

M.O. No 493 9/4/36

Genl Secrett 8/4

Rev Br 8/4

9 APR

3833 R 11/4/36

B 14/4/36

4146 & 3-35

K. T. BHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY

25th November 35.

Law 109-35-1

By Regd Post
CHIEF SECRETARY
Law Dept
26 NOV. 1935

The Chief Secretary
to the Government of Mysore.
Bangalore.

pml 26/11

Under instructions from our client Mr. K. S. Subba Iyer Jodidar of Parehosahalli residing in Shallengere, Kolar Taluk have to request you to pay him the sum of Rs 1196-2-0 together with interest thereon at 12 per cent per annum from 2-5-33 up to date of payment, due and payable to him by the Government under the following circumstances:

Parehosahalli is a Kayamgutta Village in Kolar Taluk. It consists of 16 vritties out of which our client owns 2 vritties or one eighth share in the Village.

The parehosahalli Tank having breached, Government on being requested in that behalf agreed to restore the same on the Jodidars depositing with Government the sum of Rs 2?,100/- the estimated cost of restoration.

This sum had to be deposited by the Jodidars each in proport on to the share he held in the Village. Our client had therefore to deposit Rs 2,762-8-0 which he did on 2-8-1929 and 30-11-1929 (Vide Challan No. 2? dated 2-8-1929 for Rs 470/-

of the ~~KOLAR~~ District Treasury, Kolar and Challan No. 9 dated 30-11-1929 of the same Treasury for Rs 2,292-8-0)

The other Jodidars instead of depositing cash, hypothecated their shares in the Village to Government and obtained a loan from Government which was utilised by the latter as if the same had been deposited by the Jodidars.

By G. O. No. 2684-88 dated 2-5-1933 the Government, in pursuance of their beneficent policy laid down in G. O. No. R. 28-48/L.R.482-17-42 dated 2-7-1929, sanctioned a contribution of Rs 9,569/- towards the cost of restoration.

This amount had to be credited rateably to Jodidars and so far as our client was concerned he was entitled to a refund of Rs 1,196-2-0 towards his one-eighth share. This amount he was entitled to be paid at once since he had deposited Rs 2762-8-0 in cash as stated above.

On his request for the refund of the amount namely --- Rs 1196-2-0 thus due and payable to him by Government he has been refused payment.

We learn that Government have refused to pay him the amount on the ground that he did not deposit the sum of --- Rs 2762-8-0, that the deposit was made by one Mr. Venkatesiah another Jodidar and that having refused to be a party to the restoration in the beginning he cannot claim any benefit now.

K. T. BHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY

(3

25th Nov. 1935.

We gather from the records however that though our client refused and very rightly too- to hypothecate his share in the village, he has got his share of the cost of restoration deposited as noted above. Venkatesiah the other Jodidar has paid the money "for and on behalf" of our client. It may also be --- brought to your notice that our client has hypothecated his share of the village to the said Mr. Venkatesiah for the --- amount and that the latter had undertaken and agreed that our client's share of the Government contribution should be recovered by our client.

The refusal of Government to pay to our client the refund thus lawfully due and payable to him is neither just nor tenable Our client has to pay heavy interest on the amount he has ---- borrowed for deposit with Government and the ~~refused~~ refund would have saved him from payment of interest on the amount to an appreciable extent. Government are liable to pay --- interest on the amount of refund at 12 per cent per annum from the date of their order 2-5-1933 up to date of payment.

We are thus instructed to call upon the Government to pay to our client the sum of Rs 1196-2-0 and interest thereon as stated above. We are further instructed to give you --- notice under Section 80 C. P. C. which we hereby do, that ~~our~~ on your failure to comply with the demand herein within two

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two months from date of receipt of this notice legal steps will be taken by our client for recovery of the amounts aforesaid and Government will be held responsible for such costs and expenses as our client may have to incur in that behalf.

The fee for this notice Rs 10-8-0 is payable by Government.

Yours sincerely,

E. Ponnambalam

Advocate.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 3980 L-1/Law 109-35-2

Dated, Bangalore, 16th Decr. 1935

182

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore.*

To

The Revenue Commissioner in Mysore.

Sir,

I am directed to forward herewith copy of a notice issued by Mr. K. T. Bhashyam Iyengar, Advocate, Bangalore City on behalf of Mr. K. S. Subba Iyer threatening a suit for recovery of Rs.1196-2-0 being the alleged 1/8th share of the grant of Rs.9569/- made by Government towards the restoration of Parehosahalli tank, Kolar Taluk and to request that a report with connected records may kindly be sent at an early date.

I have the honor to be,

Sir,

Your most obedient servant,

for General Secretary to Government.

Appendix F G—1]

SUBJECT.....

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Section Law

File No. 109-35-

Serial No. 2

Diary No. of letter replied to.....

No. 1398 Enc 1

To

The Rev Commr

of Inqs

General and Revenue Secretariat

( )

the *193* .

Sir,

I am directed to forward herewith copy of a Notice issued by Mr H. T. Shash Dewan, Adv, Bails of behalf of Mr H. S Subba Dyer intimating a Suit for recovery of Rs 1196-2-0 /- being the 1/8 share of the grant of Rs 9560/- made by Govt towards the restoration of Panchosahalli tank

Kolar Dy

Date of issue 18-12-35

Signed by M N R J R

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

and to request that a report with comments & records may kindly be sent at an early date

Yours etc

pp Medical Officer of Health

K. T. BHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY

(8

SECRETARIAT
3065
BRANCH

TO

The Chief Secretary,
Government of His Highness the Maharaja
of Mysore, Bangalore.

CHIEF SECRETARY.
20 JAN. 1936

Sir,

In continuation of my notice dated on behalf of my client one Mr. K.S. Subba Iyer, Jodidar of Parehosahalli village, Kolar Taluk, in respect of the refund of the compensation amount I am herewith forwarding to you for perusal and return the true copy of the District Treasury challans in respect of the amounts deposited by Mr. Ponna C. Venkatesiah, for and on behalf of Mr. K. S. Subba Iyer. The Treasury Challans may kindly be returned after done with.

Yours faithfully
K.T. Bhashyam Aiyangar
20.1.36

Ao this is a notice, it pertains to Rev Branch
& and may be sent to their Branch
22/1 To the Secretariat Rev W/C
21-1-36.

Reply
22/1

K. T RHASHYAM AIYANGAR, B.A., B.L.
ADVOCATE

COTTONPET
BANGALORE CITY

30th January 36.

CHIEF SECRETARY
30 JAN. 193

To

The Chief Secretary,
Government of H. H. the Maharaja
of Mysore, B a n g a l o r e.

Sir,

In continuation of my notice dated 25th November 1935, on behalf of my client one Mr. K. S. Subba Iyer, Jodidar of Parehosahalli Village, Kolar Taluk, in respect of the refund of the compensation amount I am herewith forwarding to you for perusal and return the true copies of the Mortgage deed executed by my client in favour of Mr. Ponna C. Venkatesia and the registered agreement executed by Mr. C. Venkatesiah in favour of my client. The mortgage deed and the agreement may kindly be returned after perusal.

Yours faithfully,

K. T. Rhashyam Aiyangar

Advocate.

No. C.2520/35-36

Copy & five Pls.

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE,

Dated Bangalore,.....5th February.....193 6

OFD 1936

FROM

Law 109-35-3

K.V. Anantaraman.Esq.B.A.,
Revenue Commissioner in Mysore.

To M.Venkatesa Iyengar.Esq.M.A.,
General ~~The~~ *Secretary to the Government*
of His Highness the Maharaja of Mysore,
Bangalore.

6 FEB. 1936 Law

Notice issued by Mr.K.T.Bhashyam Iyengar Advocate on behalf of Mr.K.S.Subba Iyer for the recovery of Rs 1196-2-0 being the alleged 1/8th share of the grant of Rs 9569/- made by Government towards the restoration of Parehosahalli tank, Kolar taluk.

Sir,

With reference to your letter No.P. 3980/Law.109-35-2 dated 16/18th December 1935 on the above subject, I have the honour forward herewith a copy of letter No.Al.C.2536/35-36 dated 26 January 1936 from the Deputy Commissioner,Kolar District,furnishing a detailed report in the matter.

The records received with the Deputy Commissioner's letter under reference as also the marginally noted files ~~for~~ of this Office containing the full facts of the case are enclosed for reference and return.

1. Dl.Dis. 767/32-33.)
2. R.Dis. 44/32-33)
3. Dl.Dis.1904/33-34.)
4. Dl.Dis.1336/35-36.)
---)

I have the honour to be,

Sir,

Your most obedient servant,

Mallikarjuniah 5/2

Assistant Commissioner,
For Revenue Commissioner,
Absent on leave.

(11

Letter No. Al.C.2536/35-36 dated 26-1-1936 from the Deputy Commissioner, Kolar District, to the Revenue Commissioner in Mysore.

Notice- under section 80 C.P.C. by Mr.K.T.Bhashyam, Advocate, on behalf of one K.S.Subba Iyer re. the refund of Rs 1196-2-0, Restoration of Parehosahalli Khyamgutta tank.

With reference to your Memo No.C.2820/35-36 dated 26-12-1935 calling for a report with the connected records on the above subject, I have the honour to enclose herein the entire file of records on the above subject recived from the Sub Division Officer, Kolar, with his No.R.S.C.1323/35-36 dated 13-1-1936 and to state as follows:-

2. One Mr.K.S.Subba Iyer, one of the hissedars, who has issued notice now under reference, was from the very out-set against the restoration of Khayamgutta Parehosahalli tank, Kolar taluk and continued as such even after the sanction of a loan of Rs 22,100/- to the Khyamguttedars for the restoration of their tank in G.O.No.R.758-61/L.R.121-27-41 dated 24-7-1928. All the remaining hissedars having an interest of 14 annas in the village were trying their best to have their tank restored while the petitioner was always obstructing them in several methods. He also issued a registered notice to Governnebt and the Executive Engineer, stating that he was no party to the restoration of the tank and his share of the Jodi village should not be made liable to the cost of restoration of the tank etc., . The other hissedars realised the great boon conferred upon them by Government by way of a loan of Rs 22,100/- and they decided to pay the share of contribution due from the contending hissedar i.e. Mr.K.S, Subba Iyer, so that there may not be any obstruction to the tank work. They accordingly deposited Rs 2762-2-0. This amount was credited to the Treasury by one Mr.Ponna C.Venkateshiah, a co-sharer, towards the 1/8th share of Mr.K.S.Subba Iyer. He (Mr.Ponna C.Venkateshiah) has given a statement before the Revenue Commissioner on 8-5-1930 (enclosed in the file) stating that he would not have any claim whatsoever to this amount deposited. The tank restoration project was sanctioned in due course and it is completed now.

3. In 1932, the hissedars who took interest in the restoration of the tank submitted petitions praying for certain concessions being shown to them under G.O.No.R.28-48/L. R.482-17-42 dated 2-7-1935 and the Government were pleased to sanction the same in G.O.No.2684-88S dated 2-5-1933.

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4. Mr.K.S.Subba Iyer then came forward and claimed his share of the benefit under this G.O.to which he was not in the least entitled,as he has persistently refused from the beginning to be a party to the restoration of the tank.

5. He (Mr.K.S. Subba Iyer) made an application to the Deputy Commissioner on 26-6-1933 claiming the same refund,and after perusing the records and hearing the arguments of his counsel,Mr. T.Srinivaschar,orders have have been passed refusing the refund. He preferred appeals to the Revenue Commissioner and Government,which were rejected finally in G.O.No .R.1431/L.R. 358-35-4 dated 19-9-1934 (copy enclosed in the file).

6. All the vernacular records,mutchalikas and bonds are enclosed for kind reference.

C o p y.

Mallikarjunar

For Revenue Commissioner.

Appendix F G—1]

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SUBJECT.....

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Section Law

File No. 109-35

Serial No. ~~D~~ 4

Diary No. of letter replied to.....

No. P b 629/file records

To The Rev. Commr

General and Revenue Secretariat

( )

the *193* .

Sir,

Date of issue 6-4-36

With reference to the Correspondence ending with your letter no. C. 2820/35-36 d 8th Feb 1936 re: the notice issued on behalf of Mr. K.S. Subbaya claiming recovery of Rs 1196-2-0 being the alleged 1/8 share of the grant made by you towards the restoration of Bachasalli tank, Kolar Taluk, I am directed to forward herewith a copy of the ~~Government~~ legal opinion obtained in the matter and to state that in the circumstances pointed out therein, the DC Kolar may be

Signed by .....

List of enclosures.....

Paras 28-32 and 36-47 omitting portions in brackets in paras 37 and 47 ~~not~~

Copied by .....

Examined by 1/4/36

WD 03601—GPB—30,000—23-9-35

(14

requested to revise his loan orders
of July 1933 giving the parties Concerned.
the the deductions of Contribution
due in respect of their respective
Provident, and to refund to
Mr. K.S. Subbaraya the proportionate with the Concurrence of Mr Venkatesa.
amount in respect of his Provident
from the Contribution deposited in
Cash on his behalf by Mr. C.
Venkataraya, ~~with the latter's Consent~~

The entire record sent
herewith returned.

I have the
honour to be
Sir
Your most
obedient
servant

T.S.D
30/7

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated. Bangalore. 6th April 1936.

No.

From

The [illegible] of His Highness
the Maharaja of Mysore.

To

The Revenue Commissioner in Mysore,

Bangalore.

Sir,

With reference to the correspondence ending with your letter No.C.2820/35-36 dated 8th February 1936, regarding the notice issued on behalf of Mr. K.S. Subba Iyer, claiming recovery of Rs.1,196-2-0 being the alleged 1/8 share of the grant made by Government towards the restoration of Parehosalli Tank, Kolar Taluk, I am directed to forward herewith a copy of the legal opinion obtained in the matter and to state that in the circumstances pointed out therein, the Deputy Commissioner, Kolar District, may be requested to revise his loan orders of July 1933 giving the parties concerned only the deductions of contribution due in respect of their respective Vrittiies and to refund to Mr. K.S. Subba Iyer with the concurrence of Mr. Venkatesia the proportionate amount in respect of his Vritti from the contribution deposited in cash on his behalf by Mr.P.Venkatesiah.

The entire records sent are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

for General Secretary to Government.

K.M.R.2.

LEGAL OPINION.

by

(Mr. A.R. Nageswara Iyer)

The facts are practically undisputed. Mr.Subba Iyer owns two out of 16 vritties in Parehosahalli. He was in the beginning unwilling to depost his share of the amount required for restoration of the village tank and Mr.Venkatesiah undertook to deposit Mr. Subba Iyer's share of the amount also and did deposit it with the Government. But later on as is evidenced by the registered agreement dated 26.7.1932 Mr. Subba Iyer and his brother Mr. Rama Iyer executed a pronote to Mr.Venkatesiah for the amount deposited by the latter less what was deducted towards other items and they also agreed to hypothecate to Mr. Venkatesiah their two vritties as security for the same. And what is more important for the present purpose, Mr. Venkatesiah undertook in the said agreement to refund to Mr.Subba Iyer and his brothers the amount payable for their share if anything out of the estimated amount was refunded to the Jodidars. A hypothecation bond was also later executed in favour of Mr. Venkatesiah. The position is therefore clear that the amount deposited by Mr. Venkatesiah was accepted by Mr. Subba Iyer and his brothers as the contribution payable by them on the basis of the original estimate.

As the Government were pleased to order in 1933 (G.O.No. 2684-88/S. dated 2.5.1933) the refund of about Rs.9,000/- to the Jodidars, Mr. Subba Iyer and his brothers would rightly be entitled to get therefrom their 1/8 share for their two vrittie The agreement above referred to also entitled them to the benefit of any refund that the Jodidars may have from the Government.

A brief reference may also be made to the undertaking given by Mr. Venkatesiah in connection with this deposit. As he deposited only what was payable by Mr. Subba Iyer he seems to have undertaken not to go behind it and claim back the amoun in order that the Government might proceed with the work at once. The question of claiming a refund was not contemplated by the party and this question I think did not arise then for consideration.

In the light of these facts it is difficult to see how the other Jodidars could have the benefit of what had to be refunded for the petitioners' two vritties. If the refund is not given to Mr. Subba Iyer he would be paying as his contribution proportionately very much more than his co-jididars and this would be unfair and inequitable. It may also be noticed that Mr. Venkatesiah who deposited the amount has no objection for the refund being granted to Mr. Subba Iyer.

Under these circumstances I am of opinion that Mr. Subba-Iyer's claim is well founded and that he is entitled pro-rata to the benefit of the refund.

Legal Opinion
by
Law Department.

On 6.4.1927 all the Jodidars including Mr. Subba Iyer presented an application to the Deputy Commissioner, Kolar, for getting the Parehosalli tank of their inam village restored through Govt. agency. On 15-2-1928 they all applied for a land improvement loan of Rs.18,340/- and also executed an agreement hypothecating their respective vritties for their respective portions of the loan. In his letter No.307 dated 16th October 1928 however, the Government Advocate advised that "to safeguard the interests of Government it would be better to make all the Jodidars jointly and severally responsible and make the entire village liable for the entire amount of principal and interest due instead of apportioning the liability amongst the several mortgagors in proportion to their interest in the village". The Public Works Department wanted a sum of Rs.3,760/- being added on to the estimate on account of supervision charges.

Mr. Subba Iyer protested against these modifications and along with him another vrittidar, holding 2½ as vritti seems also to have protested against himself and his share being held liable for the entire amount of the loan.

As further progress of the work was being delayed on account of the objections raised and as all the Jodidars except Mr. Subba Iyer appear to have agreed to pay the supervision charges, Mr. Poona C. Venkatesiah, who it is that seems to have taken a leading part in getting this work through and who is also a major vrittidar of the village, deposited Rs.470-0-0 being 1/8 share of the supervision charges payable on account of the 2 vritties of Subba Iyer. This was done on 2.8.1929 and the application filed by Mr. Venkatesia on that date clearly states that this money was paid out of his own pocket. Similarly as Mr. Subba Iyer refused to sign the agreement hypothecating his vritties for the entire amount of the loan, Mr. Venkatesia on 30.11.1929 deposited the balance of Rs.2,292-8-0 due on account of Mr. Subba Iyer's share in the village. Mr. Venkatesia also executed a mutchalika on 8.5.1930 agreeing not to ask Government for the return of the sum of Rs.2,762-8-0 deposited by him and stating that in respect of this amount he has no rights against Government. It is however clear from the treasury chellans issued as also from the petitions filed by Mr. Venkatesia at the time that the sum of Rs.2,762-8-0 he deposited was money that Mr. Subba Iyer was liable to pay on account of his 2 vritties and it is also clear that Mr. Venkatesia paid it for Mr. Subba Iyer though against his will or consent.

Efforts were made then to get registered the loan orders and the hypothecation bonds executed by the Jodidars (including Subba Iyer) in February 1928. This could not be done under the registration laws. Then a mutchalika was got executed on 10th December 1930 by Poona C. Venkatesia and the other Jodidars excluding Mr. Subba Iyer wherein is however stated that Mr. Subba Iyer has to hypothecate his 2 vritties for one-

one-eight of the original loan of Rs.18,340-0-0 applied for, i.e., for Rs.2,292-8-0 deposited by Mr. Venkatesia on 30-11-1929. The Jodidars having however finally failed to get this mutchalika duly registered and on the advice of Government in Development Secretary's letter No.R.2109/L.F. 454-31-4 dated 26th October 1932, the Deputy Commissioner, Kolar proceeded to issue a fresh loan order under the Land Improvement Loans Regulation.

Meanwhile on 26th July 1932 an agreement was entered into between Mr.C. Venkatesia and Mr. Subba Iyer and his brothers; whereby the latter agreed to hypothecate their 2 vrittes to Mr. Venkatesia for the money paid to Government on their behalf and Mr. Venkatesia agreed to pay to Mr. Subba Iyer and brothers their share of any amount that may be received back on account of the work proving less costly. In pursuance of this agreement, a hypothecation deed was also executed by Mr. Subba Iyer and brothers on 24.11.1932, Both these documents were registered in November 1932. It is clear that so far the question of a refund on account of any contribution that Government may make did not arise and was not contemplated by any of the parties concerned.

In Government Order No.2684-88/S. dated 2nd May 1933 Government however granted certain concessions to the Jodidars by which the estimated cost of Rs.22,100/- was apportioned between the Government and the Jodidars in the proportion of Jodi and Jari, the Government contribution working out to Rs.9,569/- and the inamdar's share to Rs.12,531/-.

In issuing fresh loan orders for this amount of Rs. 12,531/- what the Deputy Commissioner did was to deduct the amounts paid by Mr. Venkatesia and a sum of Rs.50/- realised on account of trees cut and sold from the sum of Rs.12,531/- and then to apportion the balance among the 14 anna hissedars of the village, thus excluding the 2 annas hisse of Mr. Subba Iyer. on this basis fresh loan orders were made and loan bonds also got executed and it is clear from these documents that it is not a loan granted to all the jodidars on a joint and several responsibility. Each Jodidar's share has been apportioned and his liability also limited to the extent of his interests in the village. And it is really not understandable how in doing this, the Deputy Commissioner, Kolar treated the sum of Rs.2,762-8-0 paid by Venkatesia on account of Subba Iyer's 2 vritties as being paid on behalf of all the Jodidars except Mr. Subba Iyer. Neither Mr. Venkatesia's application of 30-11-1929 nor his mutchalika of 8.5.1930 warrant such an inference being drawn. As the Treasury chellan shows the money deposited was accepted as money paid on behalf of K.S. Subba Iyer and whether or not there is privity of contract between Subba Iyer and the Government, it is clear that as between Venkatesia and Government, the money had to be treated as paid on account of Mr. Subba Iyer's 2 vritties. What the Deputy Commissioner, Kolar should have done is to have apportioned the inamdar's share of Rs.12,531/- among all the 16 annas hissedars and then to credit the 2 annas hisse of Subba Iyer with Rs.2,762-8-0. This would have meant payment in excess which he ought to

to have refunded to Mr. Venkatesia or at least for this excess amount it was Mr. Venkatesiah's share that ought to have been given the credit.

Even in case the Deputy Commissioner intended not to take into account Mr. Subba Iyer's 2 vritties and to exclude him completely from this work, he ought to have given credit to Mr. Venkatesia in respect of the amounts paid by him. There is no reason how any other Jodidar is entitled to the benefit of this payment by Mr. Venkatesia. In this view, the Deputy Commissioner, Kolar after deducting Rs.50/- realised out of sale of common property ought to have apportioned the balance of Rs.12,481/- among the 14 anna hissedars in proportion to their hisses and ought to have given Mr. Venkatesiah's 8¼ annas share credit for the amount of Rs. 2,762-8-0 deposited. Mr. Venkatesiah could then have worked out his rights and liabilities with Mr. Subba Iyer separately in accordance with their agreement of July 1932.

It is really not clear how this agreement of 1932 as well as the mortgage executed by Mr. Subba Iyer have not been taken into account by the Deputy Commissioner, Kolar, in making the loan orders. Mr. Subba Iyer's application for refund made to the Deputy Commissioner, Kolar in June 1933 ought to have mentioned these transactions of July and November 1932. These documents amount to a ratification by Mr. Subba Rao of the payment made by Mr. Venkatesia on behalf of Subba Iyer though at the time the payment was made Subba Iyer had not authorised it nor did he approve of it. Section 196 of the Contract Act says " where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority" In the leading case of "Wilson-vs-Tumman (1843) 6 Man & Gr. 236, it is said "that an act done for another by a person not assuming to act for himself but for such other person though without any precedent authority whatever, becomes the act of the principal, if subsequently ratified by him, is the known and well established rule of law" In this case the chellan under which Poona C. Venkatesia made the payment is as follows :-

Kolar
Dated 30th Novr. 1939.

Rupees (in words) Two thousand two hundred and ninety two and annas eight only. Presented by Mr. Poona C.Venkatesia, Contractor, Kolar on account of contribution paid by Mr. Poona C. Venkatesia, contractor, Kolar, on behalf of Mr. K.S. Subba Iyer towards the restoration of Parehosahalli Major tank, Kolar Taluk.

Sd/- Poona C. Venkatesia,
Signature.

It is no doubt true that Mr. Subba Iyer was against this payment but this does not prevent him from ratifying it afterwards. In Bondstead on Agency article 27 Cl (4), it is said that "the mere fact that the person on whose behal

a payment is made, at first refudiates it, does not prevent him from subsequently ratifying it".

Under these circumstances, I am of opinion that the loan orders made in July 1933 and the refusal to consider "r. Subba Iyer's claims for refund made in June 1933 by the Deputy Commissioner, Kolar are not in accordance with law.

Appendix F G—1]

SUBJECT.....

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Section Law

File No. 109-35

Serial No. 6

Diary No. of letter replied to.....

No. B 6630 Endt. Law 2

To K. T. Bhashyam Iyengar, Esq. B.A., B.L., Advocate, Kolar.

General and Revenue Secretariat

( )

the *193* .

With reference to his notice issued under sec 80 C.P.C. on behalf of Mr. K.S. Subba Iyer, claiming recovery of Rs 1196-2-0 being the alleged 1/8 share of the grant made by him towards the restoration of Bachenalli tank, Kolar Taluk

Date of issue.....6-1-36.....

Signed by .....

Mr. K.T. Bhashyam Iyengar, Advocate is hereby informed that the ~~Rev. Commr has been requested to settle the claim, and that~~ the Rev Comr in Mysore who has been duly instructed in the matter

List of enclosures.....

Copied by .....

Examined by.....

the copies of challan and

mortgage deed sent with his

leases dated 20.1.36 and 30.1.36

are herewith returned

15.0 April

Mr Gen Sec 1/4

TSD 30/3

P 6631 6-4-36

Cos Hse Ren Crim

for information and necessary